

SHIPPED: 7-29-63, from New Durham, N.H., by Walter J. Searles.

LIBELED: 7-30-63, Dist. Mass.

CHARGE: 402(a) (3)—contained maggots when shipped.

DISPOSITION: 8-29-63. Default—destruction.

MISCELLANEOUS FRUIT PRODUCT

29154. Canned apricot concentrate. (F.D.C. No. 49028. S. No. 46-632 X.)

QUANTITY: 134 cases, each containing 6 unlabeled cans, at St. Louis. Mo.

SHIPPED: 12-5-61, from San Jose, Calif., by Santa Clara Nut Co.

LABEL IN PART: (Case) "Six No. 10 Tins Apricot Concentrate."

LIBELED: 7-10-63, E. Dist. Mo.

CHARGE: 402(a) (3)—contained decomposed apricot concentrate while held for sale; 403(e)—when shipped, the article was in package form and failed to bear a label containing (1) the name and address of the manufacturer, packer, or distributor and (2) an accurate statement of the quantity of contents; and 403(i) (1)—its label failed to bear the common or usual name of the food.

DISPOSITION: 8-30-63. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS*

29155. Dried pinto beans. (Inj. No. 433.)

COMPLAINT FOR INJUNCTION FILED: 7-5-62, Dist. Idaho, against Axel J. Tillman, t/a Tillman & Son Co., Twin Falls, Idaho.

CHARGE: The complaint alleged that the defendant operated at Twin Falls, Idaho, a warehouse used for the storage and distribution of, among other things, beans for human consumption; that the defendant was shipping in interstate commerce such food which was adulterated within the meaning of 402(a) (3) and (4), in that the food contained uric acid and bird excreta, and was held at the defendant's warehouse at Twin Falls, Idaho, under insanitary conditions.

It was alleged further that the insanitary conditions of the defendant's warehouse resulted from and consisted of the presence of the following: widespread infestation by rodents and birds, which animals readily entered the warehouse by such means as through open loading doors, through a dust exhaust opening, through an overlapping siding, through a hole in the east door, or under loosely fitting doors; six dead mice in the southeast corner of the warehouse; approximately 15 mouse pellets per foot along the south and east walls; additional pellets between the west wall studs; bags of beans and peas stored in the warehouse but not destined for interstate commerce which were coated with bird excreta and rodent pellets, and one of which bags supported a mouse nest; cleaning equipment splattered with bird excreta; and as many as 10 to 15 sparrows flying and roosting in the building at any one time.

It was alleged further that the defendant was well aware that his activities were in violation of the law; that inspections of the defendant's warehouse at Twin Falls, Idaho, were made on 11-14-61, 12-11/13-61, and 3-6/9-62, by inspectors of the Food and Drug Administration; that at each inspection evidence of rodent and bird infestation was readily visible; that the defendant has been aware from the first inspection that beans for human consumption

*See also Nos. 29104, 29109.